

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

May 8, 2009

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

Ref. No.: RPS-5110
PSF No.: 09HD-027

HAWAII

Termination of Revocable Permit No. S-5110 to Hawaii County Economic Opportunity Council; After-the-fact Issuance of Revocable Permit to the Community Development Institute Head Start, Inc., for Day Care Purposes, Keauhou 1st, North Kona, Hawaii, Tax Map Key: 3rd/ 7-8-07: portion of 28.

APPLICANT:

Community Development Institute Head Start, Inc. (CDI HS), a Denver-base non-profit and national interim contract manager, whose business and mailing address is: P. O. Box 1417, Hilo, HI 96721-1417.

LEGAL REFERENCE:

Sections 171-13 and -55, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Keauhou School Lot, Cottages 2 & 3, situated at Keauhou 1st, North Kona, Hawaii, identified by Tax Map Key: 3rd/ 7-8-07: portion of 28, as shown on the attached map labeled Exhibit A.

AREA:

.045 acres (1,960 s.f.), more or less.

ZONING:

State Land Use District: Agriculture
County of Hawaii CZO: Agriculture

TRUST LAND STATUS:

Section 5(a) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution:

YES _____ NO x

CURRENT USE STATUS:

Encumbered by Revocable Permit No. S-5110, Hawaii County Economic Opportunity Council (HCEOC), Permittee, for Day Care purposes.

CHARACTER OF USE:

Day Care purposes.

COMMENCEMENT DATE:

April 1, 2009.

MONTHLY RENTAL:

Pursuant to HRS 171-43, and the minimum rent policy established by the Board at its meeting of May 13, 2005, under agenda item D-19, the annual rent will be set at \$480.00.

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1 that states " Operations, repairs, or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion of change of use beyond that previously existing."

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u> x </u>	NO
Registered business name confirmed:	YES <u> x </u>	NO
Applicant in good standing confirmed:	YES <u> x </u>	NO

REMARKS:

The subject parcel was originally encumbered under Executive Order No. 479, dated April 17, 1931, to the Department of Public Instructions, for Keauhou School Lot.

At its meeting of September 12, 1969, under agenda Item F-9, the Board of Land and Natural Resources, approved of and voted to recommend to the Governor issuance of an executive order canceling Executive Order No. 479 (Keauhou School/ Department of Education) for the reason that the Keauhou School and grounds were no longer being utilized for school purposes.

At its meeting of December 14, 1973, Item F-7, the Board of Land and Natural Resources approved the issuance of a revocable permit to the HCEOC for Day Care purposes. Over the past 35 years, the bond requirement was waived and the permit was issued at gratis.

By letter dated March 17, 2009 from Nila Rinehart, CDI HS Lead Site Manager and of March 18, 2009 from George Yokoyama, HCEOC Director, requested to terminate Revocable Permit No. S-5110 and to issue a new revocable permit to CDI HS for Day Care purposes. HCEOC will be relinquishing operations of the Head Start program effective March 31, 2009, therefore, the Federal Office of Head Start has appointed CDI HS to temporarily run its operations until a new, local, permanent grantee/ operator is identified. CDI HS, a Denver-base, non-profit and national interim contract manager will commence the operations on April 1, 2009. It is hoped that there will be no interruptions in services with a transfer of management that is transparent to the children and families participating in the program. As part of that process, CDI HS intends to hire HCEOC Head Start staff at an upcoming job fair.

Due to the short notice staff received of the request for a new revocable permit, staff is handling the matter as an after-the-fact disposition. To assist CDI HS with a transparent transition for its clients, staff is allowing CDI HS to occupy the property and resume its operation of the day care program effective April 1, 2009.

The proposed use is allowable in the county zoning, which is RA-.5a.

CDI HS has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

To date there are no other applicants requesting use of the subject parcel.

A month-to-month tenancy is appropriate for the moment as CDI HS is only a temporary contract manager assigned to operate the Head Start program. Once the Office of Head Start identifies a permanent entity to operate its program, staff would then pursue issuance of a longer termed disposition.

Various government agencies were solicited for comments. To date, all respondents had no objections.

AGENCIES	COMMENTS
County of Hawaii	
Fire Department	No response
Planning Department	No objections
Police Department	No objections
Public Works	No response
Department of Water Supply	No response
State of Hawaii	
DLNR-Historic Preservation	No objections
Other Agencies/ Interest Groups:	
Office of Hawaiian Affairs	No objections

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment;
2. Authorize the termination of Revocable Permit No. S-5110 to the Hawaii County Economic Opportunity Council, effective March 31, 2009;
3. Authorize the issuance of a revocable permit to the Community Development Institute Head Start, Inc., covering the subject area for Day Care purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - a. The standard terms and conditions of the most current revocable permit form, as may be amended from time to time;
 - b. The commencement date of this revocable permit shall be April 1, 2009;

May 8, 2009

- c. Review and approval by the Department of the Attorney General; and
- d. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Wesley T. Matsunaga
Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson





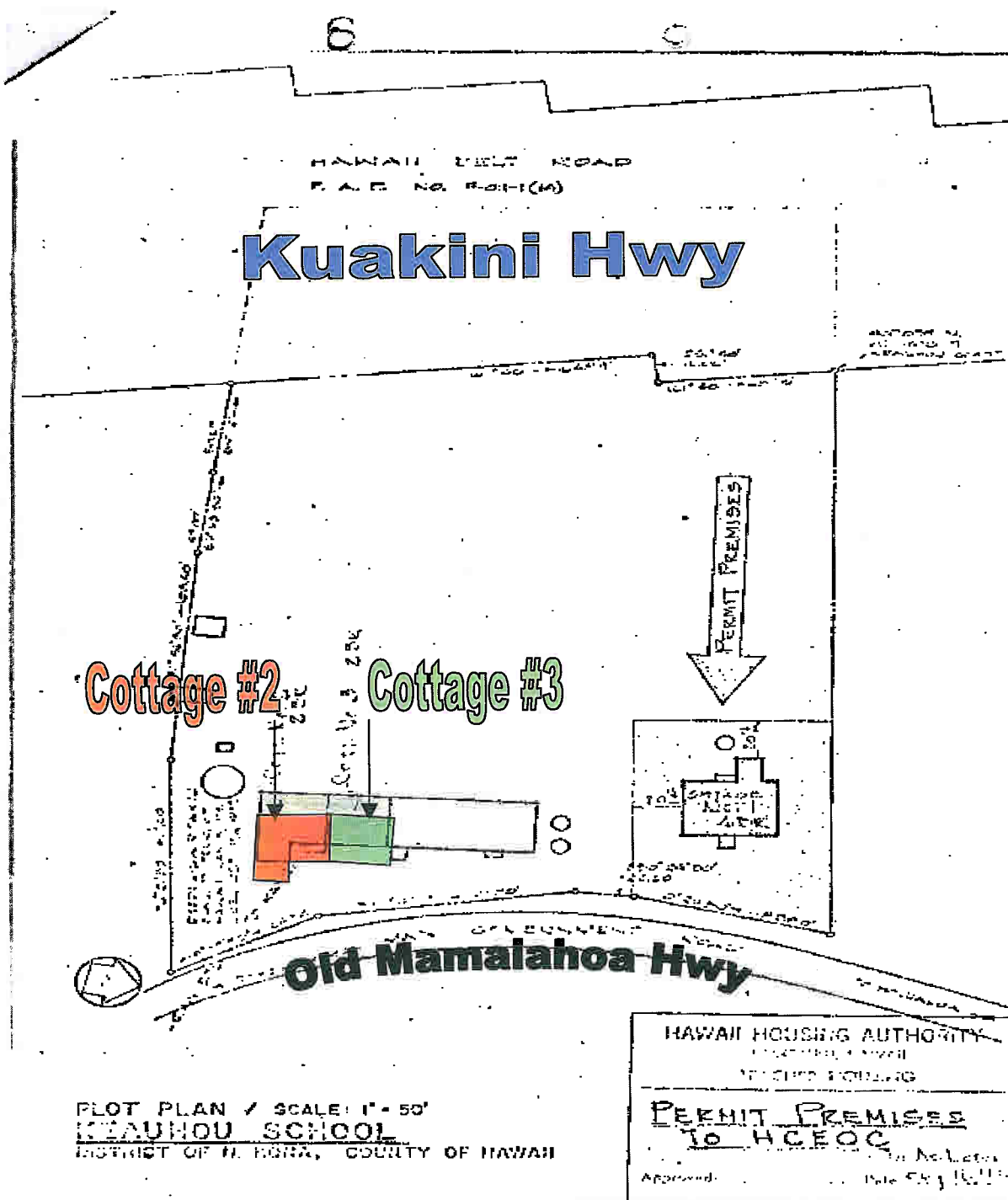


EXHIBIT A

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

May 13, 2005

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

Statewide

Minimum Rent Policy for New Dispositions

BACKGROUND

Pursuant to discussion among staff, we feel there is a need to balance staff time and costs against the returns from Land Division dispositions. The State should receive a fair return on the land while maintaining its duty under the public land trust.

The current lowest rent for leases and revocable permits is \$156 per year or \$13 per month. Staff cannot locate any Board approval regarding the definition or the origin of the "minimum rent". Staff believes that in the past we just administratively adopted the term.

A consulting report by local real estate appraisal and consulting firm Medusky & Co. was completed in April 2004 which addressed the state's proposed formula for calculating one-time payments for term shoreline encroachment easements. The report recommended that for small encroachments where the rent payment, when calculated using the recommended formula is less than \$500, a minimum rent be charged of \$500. The \$500 amount was derived via other small easement considerations researched from the market. This fee was considered reasonable in part for inconvenience and to defray administrative costs. The Board has adopted the \$500 minimum rent for shoreline encroachments.

RESEARCH

Staff has conducted some research into overhead and administrative costs necessary to manage new dispositions and reopenings. Other landowners were surveyed such as Campbell Estate and Kamehameha Schools Bishop Estate. Campbell does not have a universal minimum rent but every year they set their rent based on the current conditions and evaluates all new deals based on that. Calls to Kamehameha Schools were not returned. Department of Transportation (DOT) and Department of Agriculture were also surveyed as to their policy regarding minimum rent. Only DOT charges a minimum rent of \$20 per month for rental of storage areas in the harbor areas.

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON *MO*

May 13, 2005

EXHIBIT "B"

ITEM D-19

Dispositions including lease, easement, license and revocable permit involve rental payments on a recurring basis or lump sum. The proposed guideline as explained below will cover these disposition but not the fee conveyances, e.g. sale of remnant or reclaimed land.

Further, staff notes that land dispositions involve multiple offices, e.g. DLNR, DAGS, AG. Staff would point out that the minimum rent recommended below only covers the staff cost of DLNR as the other agencies are only involved at the application stage. Once the disposition is consummated, DLNR is the only agency that manages the disposition and incurs staff costs. While we want to recoup part of the staff cost, staff feels that the figure has to be realistic and affordable by our tenants.

Also, time consumed for different disposition could be varied. Staff discussed the time with other districts and feels that an 8-manhour period is appropriate as the basis of this analysis.

EVALUATION:

Eight hours at a rate of \$18.91 (starting hourly rate of a Land Agent IV) is \$151.28. However, after the initial year, staff time expended on a disposition, which is in compliance with the terms and conditions, would be reduced substantially. Therefore, staff recommends a 75% discount from the total staff costs to account for the ongoing staff time on managing the disposition. Staff recommends \$40 per month or \$480 per year ($\$151.28 \times 25\% = \37.82 , rounded to \$40 per month) as the minimum rent for all dispositions involving recurring rental payment.

Staff feels the minimum one-time payment (\$500) adopted by the Board for shoreline encroachment could be used as a guideline for other term or perpetual easements as well. The report by Medusky based his findings on market data, which reviewed other minimum rent payments for a variety of other easements. The report concluded a minimum payment for small encroachment easements of \$500. Land Division has been recommending one-time payment for other types of easements (e.g. access, utility easements). Easement valuations are largely determined via independent appraisal. However, in the event the appraised value for the term or perpetual easement is below \$500, then Staff recommends a \$500 charge to cover administrative overhead. Staff feels this amount should be set as a minimum for all dispositions involving one-time payment.

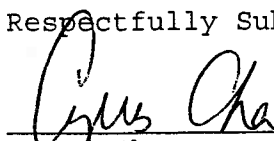
RECOMMENDATION

That the Board approves the above policy by requiring:

- A. All new dispositions by Land Division shall be subject to a minimum rent of \$40 per month, \$480 per year or \$500 (one-time payment) depending on the payment term.
- B. Staff shall bring any cases that require deviation from the above policy to the Board for approval.

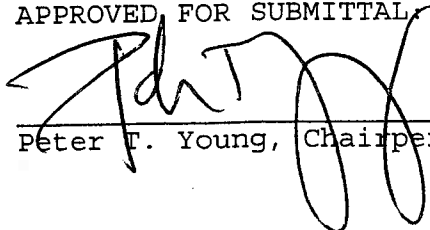
May 13, 2005

Respectfully Submitted,



Cyrus Chen
Appraisal Manager

APPROVED FOR SUBMITTAL



Peter T. Young, Chairperson